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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,410	01/04/2006	Stephen John Barrett	CE31066P	4553
22917 7590 01/17/2007 MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196			EXAMINER PHU, SANH D	
			ART UNIT	PAPER NUMBER
			2618	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/563,410

Applicant(s)

BARRETT ET AL.

Examiner

Sanh D. Phu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-22 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,9,13-16, 26-27 is/are rejected.
- 7) ☒ Claim(s) 5-8,10-12,17-22 and 28-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is responsive to the Preliminary Amendment filed on 1/4/06. Accordingly, claims 1, 4-22 and 26-30 are currently pending; and claims 2, 3, 23-25, 31 and 32 are canceled.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 27, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections – 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4, 9, 13–16, 26 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Bird et al (6,657,954).

–Regarding to claim 1, see figures 2, 4, 5A–C and 6, and col. 1, lines 14–35, col. 4, line 46 to col. 18, line 6, Bird et al discloses a communication system (see figure 2) comprising a system management function for managing base-site resources and system throughput of data, the system management function configured to identify a number of resources, wherein the system management function comprises:

a throughput identification function (provided by “first monitor”, “second monitor” or “third monitor” of (47) (see col. 5, lines 32–36, col. 7, lines 1–38))

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to identify one or more bottleneck resources (e.g., load, bandwidth, protocol traffic, etc.) from a sub-set of system resources involved in the system throughput “transmission rate”; and

means (provided by “first monitor”, “second monitor” or third monitor of (47) (see col. 5, lines 32–36, col. 7, lines 1–38)) for applying selectively at least one quality indicated via a “threshold” of service process selected from the group (comprising “first monitor”, “second monitor” and “third monitor”) of scheduling and admission control, to the identified one or more bottleneck resources, based on the identification of the bottleneck resource.

–Regarding to claim 4, Bird et al discloses that the bottleneck resource is identified as a bottleneck resource using a measurement of a resource's utilization, (e.g., measurement of a percentage of increase messages sent over a recent interval, a detected congestion, etc.) (see col. 7, lines 1–38).

–Regarding to claim 9, Bird et al discloses that the system management function only applies one or more quality of service processes to the identified one or more bottleneck resources (see figures 4, 5A–5C, col. 7, line 54 to col. 8, line 65).

-Regarding to claim 13, Bird et al discloses that the communication system is a wireless communication system, (considered here equivalent with the limitation "3GPP wireless communication system") and the system management function is a radio network controller (included in (47)) (see figure 2, col.. 5, lines 32-64).

-Regarding to claim 14, as applied to claim 1, Bird et al discloses that the resources comprise load, bandwidth, etc., (considered equivalent with the limitation "air-interface resource").

-Regarding to claim 15, as similarly applied to claims 1, 4, 9, 13 and 14, set forth above and herein incorporated, see figures 2, 4, 5A-C and 6, and col. 1, lines 14-35, col. 4, line 46 to col. 18, line 6, Bird et al discloses a method (see figure 2) comprising

procedure (provided by (47)) of identifying a number of resources(e.g., load, bandwidth, protocol traffic, etc.) that affect data throughput "transmission rate" in the communication system; identifying, (via "first monitor", "second monitor" and "third monitor"), one or more bottleneck resources (e.g., load, bandwidth, protocol traffic, etc.) from a sub-set of system

resources; and applying, (via “first monitor”, “second monitor” and “third monitor”), selectively one or more quality indicated via a “threshold” of service processes selected from the group (comprising “first monitor”, “second monitor” and “third monitor”) of scheduling and admission control, to the identified one or more bottleneck resources, based on the identification of the bottleneck resource (see col. 5, lines 32–36, col. 7, lines 1–38).

–Regarding to claim 16, Bird et al discloses procedure of identifying a resource capacity, (e.g., capacity in terms of load, bandwidth, etc.) of a number of the resources (e.g., load, bandwidth, protocol traffic, etc.) to identify the bottleneck resource (see col. 1, lines 14–35).

–Regarding to claim 26, as similarly applied to claims 1, 4, 9, 13 and 14–16, set forth above and herein incorporated, see figures 2, 4, 5A–C and 6, and col. 1, lines 14–35, col. 4, line 46 to col. 18, line 6, Bird et al discloses a radio network controller (47) (see figure 2) managing base-site resources (e.g., load, bandwidth, protocol traffic, etc.) and system throughput “transmission rate” of data, the radio network controller identifying a number of resources (e.g., load, bandwidth, protocol traffic, etc.), wherein the radio network controller is

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comprises a throughput identification function (provided by “first monitor”, “second monitor” and “third monitor” of (47)) to identify one or more bottleneck resources from a sub-set of the number of system resources involved in said system throughput (see col. 5, lines 32–36, col. 7, lines 1–38).

–Regarding to claim 27, Bird et al discloses that the radio network controller selectively applies one or more quality of service processes to the identified one or more bottleneck resources, for example where the one or more quality of service processes comprise: scheduling and/or admission control (see figures 4, 5A–5C).

Allowable Subject Matter

5. Claims 5–8, 10–12, 17–22, 28–30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanh D. Phu whose telephone number is (571)272-7857. The examiner can normally be reached on M-Th from 7:00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571) 272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sanh D. Phu
Examiner
Division 2618

11/26/06



SANH D. PHU
PATENT EXAMINER

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